

REMARKS

The application has been reviewed in light of the Office Action dated October 19, 2005. Claims 1-28 are pending, with claims 1, 11, 21, and 28 being in independent form.

Applicant makes of record a February 10, 2006, telephonic interview between Examiner Trail and Joseph Gross, an associate of the undersigned attorney, regarding the outstanding rejections of claims 1-28 under 35 U.S.C. §§ 102(e) and 103(a). Applicants wish to thank the Examiner for her time and consideration during the interview. It was agreed that, barring the Examiner identifying any additional support for the pending rejections, these rejections would be withdrawn upon submission of the remarks made herein.

Claims 1, 3, 8-11, 13, 18-21, 23, and 28 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Remarks begin on page 2 of this paper. Publication 2002/0196227 to Surloff et al.

Independent claim 1 of the present application relates to a system for managing digital rights of digital content over a network. A data card which contains user information includes digital rights information specific to a user. The data card has a memory component for enabling information to be stored within the data card. A data card reader is adapted to access the user information contained on the data card when the data card is in communication therewith. A data processor is in communication with the data card reader and adapted to be connected to the network. An application program resides on the memory component of the data card. The application program is configured to operate in

conjunction with a universal language for creating and controlling digital rights, to manage user rights of the digital content available on the network based on the digital rights information specific to the user which is contained on the data card.

Surloff et al. relates to a method and apparatus for enabling users of computers to purchase goods and services from web sites over the Internet. Surloff et al. uses a smart card to store a personal identifier, which is read and validated to provide a secure mode of operation (see, for example, paragraph [0031]).

While Surloff et al. uses a smart card to authenticate a user for conducting a secure transaction, Surloff et al. fails to teach or suggest "A data card which contains user information **includes digital rights information** specific to a user" and "An application program resides on the memory component of the data card. The application program is configured to operate in conjunction with **a universal language for creating and controlling digital rights, to manage user rights of the digital content** available on the network based on the digital rights information specific to the user which is contained on the data card" as claimed in independent claim 1 (emphasis added).

Managing digital rights, often referred to in the art as "Digital Rights Management" (DRM), is a term of art and is explained in the specification. For example, page 12 of the specification explains that digital rights information is used "...to access and use the digital content in accordance with the access rights information and the usage rights information. The usage rights

information may include at least one of read-only rights, print rights, download rights, save rights, and distribution rights."

Therefore, as known in the art, and explained in the specification, digital rights management relates to the restricted access and use of digital content. According to Wikipedia.org (as viewed on February 8, 2006), digital rights management "handles the description, layering, analysis, valuation, trading and monitoring of the rights held over a digital work."

Digital rights management, as used in claim 1, is distinct from the validation of Surloff et al. Validation allows a user to either access a network or prevents a user from accessing a network depending on the credentials of the user. Digital rights management controls how digital content is consumed.

Accordingly, independent claim 1 is patentable over Surloff et al. for at least the above reasons. Additionally, claims 3, 8-11, 13, 18-21, 23, and 28 are patentable over Surloff et al. for at least similar reasons.

Claims 2, 4-7, 12, 14-17, 22, and 24-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over Surloff et al. in view of U.S. Patent No. 6,401,239, to Miron.

Miron relates to a system for automatically updating software installed on a computer. In Miron, the version of the installed software is compared with the latest available version of the software and a "delta file" representing the differences between the version of the installed software and the latest available version is automatically downloaded and installed on the computer to bring the installed software up-to-date.

Neither Surloff et al. nor Miron, alone or in combination, teach or suggest "A data card which contains user information **includes digital rights information** specific to a user" and "An application program resides on the memory component of the data card. The application program is configured to operate in conjunction with **a universal language for creating and controlling digital rights, to manage user rights of the digital content** available on the network based on the digital rights information specific to the user which is contained on the data card" as claimed in independent claim 1 (emphasis added).

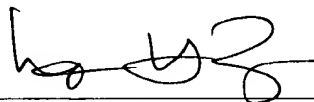
Accordingly, independent claim 1 is patentable over the cited art for at least the above reasons. Additionally, claims 2, 4-7, 12, 14-17, 22, and 24-27 are patentable over the cited art for at least similar reasons.

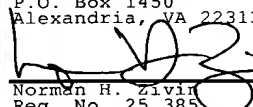
The Office is hereby authorized to charge any fees which may be required in connection with this amendment and to credit any overpayment to Deposit Account No. 03-3125.

Favorable reconsideration is earnestly solicited.

Respectfully Submitted,

Dated: 2/10/06



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